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17 AUG 1976

DD/A Registry

76-4398

OGC HAS  
REVIEWED.

MEMORANDUM FOR: Deputy Director for Administration

FROM : F. W. M. Janney  
Director of Personnel

SUBJECT : Within-Grade Increases for Part-time and  
Intermittent Employees

REFERENCE : OGC 76-2564, dtd 14 May 1976, subj:  
Within-Grade Increase for Part-time  
and Intermittent Employees

1. This memorandum submits a recommendation for your approval in paragraph five (5).

2. By referent memorandum, the Office of General Counsel concurred in our recommendation that part-time and intermittent employees can receive within-grade increases even though they do not occupy "positions" per se on the staffing complement. We felt that with the implementation of the single ceiling and with the decision that only full-time permanent employees (whether staff or contract) occupy positions with all others being budget controlled, those budget controlled employees, many of whom are contract employees, should have within-grade eligibility. Historically, provision for within-grade increases in contract employee contracts has been discretionary with operating officials.

3. Subsequently, we discussed whether employees on a one-year contract which is extended from year to year fall within the definition of a "temporary employee" in the Civil Service terms of a temporary employee, thereby making those employees ineligible for within-grade increases. Recognizing that many of the contract employees, particularly spouses at overseas posts, are under a one-year contract which is extended from year to year so that they may have Social Security coverage, we believe that they do not fit the definition of "temporary." For our internal ceiling charge, once a full-time contract employee's contract is extended beyond the initial one year, the employee is counted against the Agency's full-time permanent ceiling.

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4. An allied matter to the within-grade increases is the authorization of legislative pay increases for contract employees paid on a GS equivalent or GS equivalent related pay scale. Staff employees, by virtue of being appointed employees, automatically receive legislative pay increases. Virtually all contract employees have that benefit contained in their contracts, but again [REDACTED] states that legislative pay increases will normally be granted. Under the single ceiling concept we recommend that, as a matter of policy, all contract employees paid on a GS equivalent or GS equivalent related pay scale should have the legislative pay increase authorization.

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5. Therefore, we propose the issuance of a headquarters [REDACTED] notice for your signature which will state that, as a matter of policy, all contracts (except for rehired annuitants) whether full-time, part-time or intermittent, for those contract employees paid on a GS equivalent or GS equivalent related pay scale will contain a provision which authorizes eligibility for within-grade increases effective 6 July 1975, the beginning of the first pay period after the implementation of the single personnel ceiling in the Agency. The notice will also state that, as a matter of policy, all contracts for those contract employees paid on a GS equivalent or GS equivalent related pay scale will contain a provision authorizing all future legislative pay increases. This proposal has the informal concurrence of a representative of DDO/CMG.

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(Signed) F. W. M. Janney

F. W. M. Janney

CONCUR:

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[REDACTED]  
Office of General Counsel

1 Sept 76  
Date

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2 SEP 1976  
Date

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**Distribution:**

Orig - Return to D/Pers

2 - DDA Chrono, Subject

1 - OGC (Attn: Mr. [REDACTED])

1 - DDO/CMG (Attn: [REDACTED])

1 - C/Review Staff/OP

1 - D/Pers

1 - C/CPD (1 w/held)

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OP/CPD/[REDACTED] gec (16 Aug 76)

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2 - [REDACTED]

(2/8/76) L. A. M. T. 70000

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MEMORANDUM FOR: Director of Personnel

SUBJECT: Within-Grade Increase for Part-Time and Intermittent Employees

1. You have requested the concurrence of this Office in a proposal to pay part-time and intermittent employees within-grade increases, regardless of the fact that they do not occupy positions on the staffing complement. Your memo states that this question arose because of a change in Agency personnel strength accounting procedures put into effect on 1 July 1975. This change implemented a single personnel ceiling policy whereby all full-time permanent employees, both staff and contract, are assigned established positions on the staffing complement while part-time and intermittent employees, formally assigned to specific slots, are now budget-controlled. Since 5 U.S.C. 535 authorizes payment of within-grade increases only to individuals who occupy permanent positions in the General Schedule, you have raised the question of whether this shift may now make part-time or intermittent employees ineligible for within-grade increases. In this regard you note that in other Government agencies, such individuals normally occupy specific positions within other Federal agencies and that, as a matter of equity, part-time or intermittent employees of the CIA should be entitled to the same treatment.

2. The pertinent statutory authority on this question is found in 5 U.S.C. 5335 which states:

(a) An employee paid on an annual basis, and occupying a permanent position within the scope of the General Schedule, who has not reached the maximum rate of pay for the grade in which his position is placed, shall be advanced in pay successively to the next higher rate within the grade at the beginning of the next pay period following the completion of... (Emphasis added.)


Paragraph 4-4 of chapter 531 of the Federal Personnel Manual provides further guidance on within-grade increases and states:

The within-grade increase provisions of the General Schedule and the Commission's regulations apply to full-time, regular part-time, when-actually-employed, and intermittent employees who occupy permanent positions under the law....

Paragraph 4-5a(2) defines "permanent position" as "...one filled on a permanent basis, that is, one not designated as temporary by law and not having a definite time limitation." Our survey of existing laws and regulations has not revealed any language which equates permanent positions as defined above with "position" or "slot" as used in your memo, which essentially discusses positions in relation to personnel accountability systems. Discussions with personnel of the Civil Service Commission's Bureau of Policy and Standards, Pay and Leave Administration Section, confirmed our conclusion that a permanent position and a position in a personnel accountability system may be viewed as separate and distinct from each other.

3. Since it is apparent in the language of paragraph 4-4 that part-time and intermittent employees can, in fact, occupy permanent positions, this Office sees no reason why such positions cannot be regulated by budgetary controls as well as by the establishment of specific slots. Accordingly, we concur in granting within-grade increases to part-time and intermittent employees, regardless of the fact that they do not occupy specific slots on the staffing complement, if they otherwise qualify for such an entitlement. Further, we see no legal objection to making this determination effective as of 1 July 1975.

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Office of General Counsel  
Operations and Management Law Division

cc: G/Review Staff/OP  
LCPD/OP

ROUTING AND RECORD SHEET				
Approved For Release 2001/08/27 : CIA-RDP79-00498A000500020009-5				
SUBJECT (Optional)				
Within-Grade Increases for Part-Time and Intermittent Employees				
FROM:		EXTENSION	NO.	
Director of Personnel 5 E 58, Headquarters		6825	DATE 17 AUG 1976	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. Office of General Counsel Attn: [redacted] 7 D 07, Headquarters	5 Sept 76		MA	To 7
2. [redacted]				Fred,
3. Deputy Director for Administration 7 D 18, Headquarters	2 SEP 1976		D	Good proposal
4. [redacted]				It ensures equity
5. Director of Personnel 5 E 58, Headquarters	2 SEP 1976			& also contributes
6. [redacted]				to ease of
7. D/Personnel				administration
8. [redacted]				STATINTL
9. DDA Remarks: "To 7: Fred:				
10. "Good proposal--it ensures equity and also contributes to ease of administration.				
11. /s/ Jack Blake"				
12. Att: DDA 76-4398 Memo to DDA fr D/OP dtd 17 August 1976, Subject: Within-Grade Increases for Part-time and Intermittent Employees				
13. Distribution: Orig RS - D/OP w/Orig of Att				
14. 1 RS - DDA Subject w/att 1 RS - DDA Chrono w/att 1 RS - JFB Chrono w/att				
15. DDA:JFBBlake:der (2 September 1976)				

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